

**\*E-Filed: March 7, 2014\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SERGIO RODRIGUEZ,

No. C13-02213 HRL

Plaintiff,

**ORDER GRANTING DEFENDANTS'  
MOTIONS TO DISMISS**

v.

STATE OF CALIFORNIA, ET AL.,

**[Re: Docket Nos. 43, 45]**

Defendants.

Plaintiff Sergio Rodriguez sues various public entities in connection with numerous allegedly wrongful arrests. Several defendants moved to dismiss the claims against them, and a hearing was held on October 1, 2013. Rodriguez died a few weeks later. On November 21, 2013, Defendant City of Salinas filed a Statement Noting the Death of Plaintiff Sergio Rodriguez, having served the statement on Rodriguez's only known next of kin on November 18, 2013. *See* Dkt. No. 42. More than 90 days later, Defendant City of Salinas and Defendant County of Sacramento each moved to dismiss pursuant to Rule 25(a) of the Federal Rules of Civil Procedure. *See* Dkt. Nos. 43, 45. Defendant County of Monterey joined both motions. *See* Dkt. Nos. 44, 46.

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a).

1 A motion for substitution was not filed within the 90-day period following service of the  
2 Statement Noting the Death of Plaintiff Sergio Rodriguez. Accordingly, the action must be  
3 dismissed, and defendants' motions are GRANTED. The clerk shall close the file.

4 **IT IS SO ORDERED.**

5 Dated: March 7, 2014

6   
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
\_\_\_\_\_  
HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

**C13-02213 HRL Notice will be electronically mailed to:**

Amanda Michelle Cohen    acohen@hurleylaw.com, epeabody@hurleylaw.com,  
mbrenkwitz@hurleylaw.com, vphurley@hurleylaw.com

Jose Omar Rodriguez    jorodriguez@hurleylaw.com, epeabody@hurleylaw.com,  
mbrenkwitz@hurleylaw.com, vphurley@hurleylaw.com

Mark Peter O'Dea    shreve@longyearlaw.com, modea@longyearlaw.com

Vincent P. Hurley    vphurley@hurleylaw.com, epeabody@hurleylaw.com,  
mbrenkwitz@hurleylaw.com

William Merrill Litt    littwm@co.monterey.ca.us, moores@co.monterey.ca.us,  
zinmank@co.monterey.ca.us

**Counsel are responsible for distributing copies of this document to co-counsel who have not  
registered for e-filing under the court's CM/ECF program.**